

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

TONY J. STACEY,)	
)	
Plaintiff,)	
)	Case No. 3:07-1037
v.)	Judge Echols
)	
STACEY SWINDELL, et al.,)	
)	
Defendants.)	

ORDER

The Magistrate Judge entered a Report and Recommendation (“R & R”) (Docket Entry No. 3) on July 1, 2007, recommending that this civil rights action be dismissed without prejudice because Plaintiff failed to effect service within 120 days as required by Rule 4(m) of the Federal Rules of Civil Procedure and because Local Rule 41.01 provides for dismissal without prejudice where no action has been taken in a case for six months or more. Plaintiff filed an untitled document on July 11, 2008, in which he states that he intends to formally file an objection to the recommended dismissal and intends to fully pursue his case. (Docket Entry No. 4).

When a party makes timely objections to a Report and Recommendation, the Court “shall make a *de novo* determination of the matter and may conduct a new hearing, take additional evidence, recall witnesses, recommit the matter to the Magistrate Judge for further proceedings and consideration, conduct conferences with counsel for the affected parties, and receive additional arguments, either oral or written, as the District Judge may desire.” L.R.M.P. 9(b)(3). Where no objections are made to the R & R, “[t]he district judge may accept, reject, or modify the


recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.” Fed.R.Civ.P. 72(b).

Regardless of whether Plaintiff’s untitled filing is considered an objection or not, it is clear that the Magistrate Judge was correct in recommending dismissal. The Complaint was filed on October 17, 2007, and absolutely no action has been taken by Plaintiff since that date, except for the filing of his untitled document indicating his intention to file a formal objection and pursue this litigation. The adage holds true – actions speak louder than words. Since no substantive action has been taken by the Plaintiff in this case since the filing of the Complaint, the action will be dismissed without prejudice.

Accordingly, the R & R (Docket Entry No. 3) is hereby ACCEPTED and APPROVED. To the extent that Plaintiff’s untitled filing (Docket Entry No. 4) is considered an objection to the R & R, it is hereby OVERRULED. This case is hereby DISMISSED WITHOUT PREJUDICE.

Entry of this Order on the docket shall constitute entry of a final judgment in accordance with Federal Rules of Civil Procedure 58 and 79(a).

It is so ORDERED.



ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE